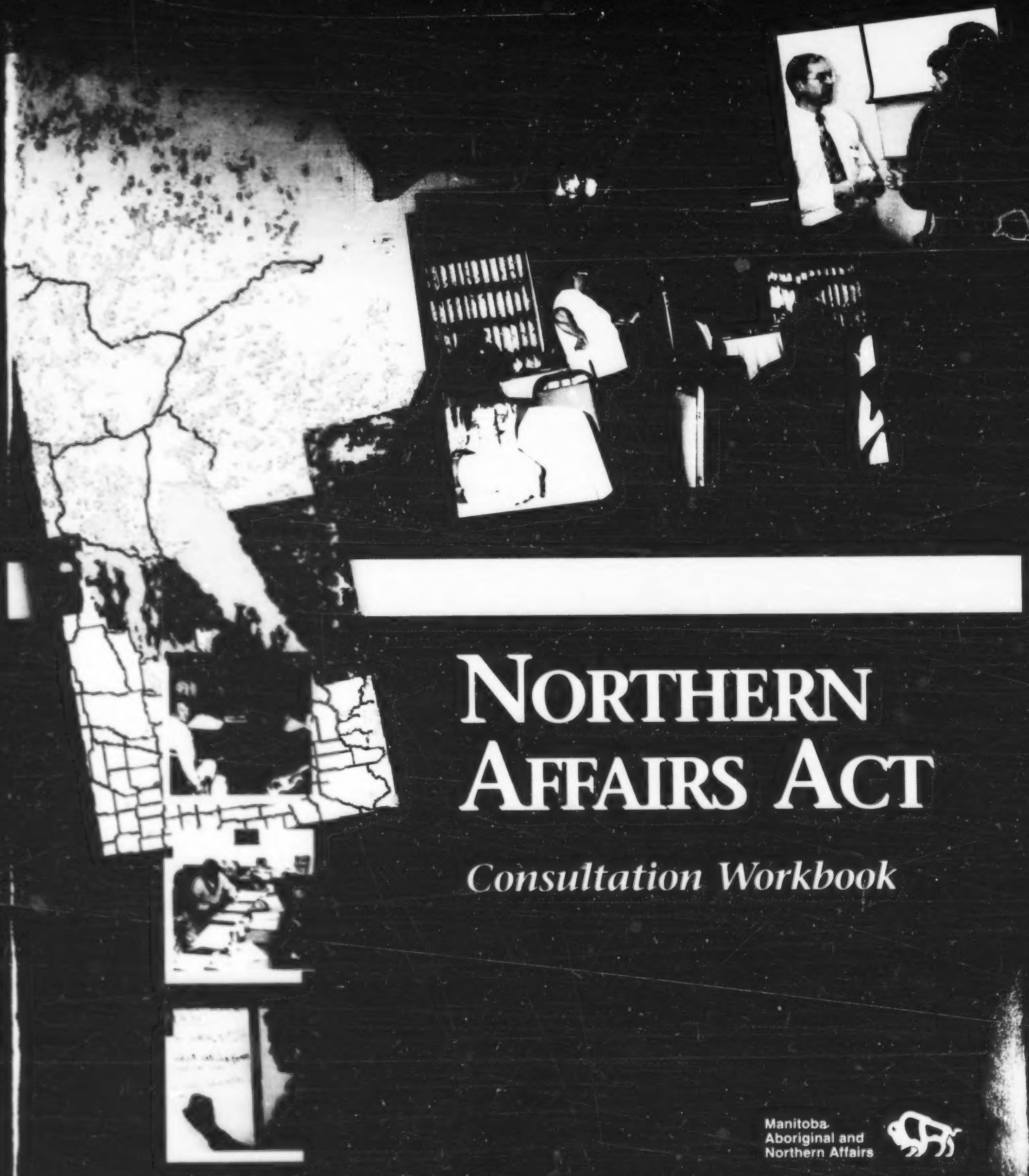

NORTHERN AFFAIRS ACT

Consultation Workbook

Manitoba
Aboriginal and
Northern Affairs

101-03014/

Northern Affairs Act

Consultation Workbook

NORTHERN AFFAIRS ACT

It is important that you, as community leaders and residents, have the opportunity to make suggestions and comments to the government respecting changes to legislation that affects you and your communities.

This workbook is being made available so that your comments may be considered. You will find that the workbook outlines the general process that will be followed in reviewing and possibly preparing new legislation for the Northern Affairs communities.

I hope that you will take every opportunity to participate in this review of *The Northern Affairs Act*. My colleagues and I look forward to seeing the types of changes that you feel would be beneficial to Northern Manitoba.

Yours sincerely,

Eric Robinson,
Minister

Table of contents

Introduction

- What is the Act and what is its purpose? Page 2
- Why is the Act under review? Page 2
- What is the review expected to accomplish? Page 2

Process

- How is the review to be conducted? Page 3
- Who will be doing the review? Page 3
- Who will be involved or consulted? Page 3
- How long will it take? Page 3
- What is the process for bringing in a new Act? Page 4

The Current Act

- What does the Act do? Page 4
- How does the Act impact residents? Page 4
- How does the Act impact Mayors and Councils? Page 4
- How does the Act impact department staff? Page 5
- How does the Act impact the Minister's authority and responsibilities? Page 5

Key Issues or Concerns

- Types of communities and numbers of each type Page 5
- Recognition and dissolution of communities Page 6
- Community boundaries Page 7
- Election process Page 7
- Council member remuneration Page 8
- Council members' authority and responsibilities Page 8
- Administrative structure Page 9
- Community budget process Page 10
- Revenue sources for local government operations Page 10
- Services provided by local government Page 11
- Economic development Page 12
- Conflict of interest Page 13
- Other Issues Page 13

Where to obtain more information Page 14

Work book questionnaire (Survey) yellow pages

1. Introduction

- What is the Act and what is its purpose?

The Northern Affairs Act is the legal document, enacted by the Provincial Legislature, which permits the Minister of Aboriginal and Northern Affairs to:

a) recognize communities, and enable them to carry out various local governance functions;
b) provide support to and assist communities to carry out local services within the community;
c) provide government services directly to a community, or through another department or agency to a community, or to the residents of northern Manitoba;
d) set out the basic ground rules for various activities such as community elections, enactment of by-laws, collection of property taxes, etc.; and
e) coordinate the activities of the Provincial Government in Northern Manitoba.

- Why is the Act under review?

The Northern Association of Community Councils, over the years, made representation to the government for changes to the Act recognizing that conditions for communities and residents continues to change. Over the past few years, some of the changes that have occurred and impacted communities are things like Bill C31; *The Municipal Act*, 1996; amendments to *The Planning Act*.

The current Act was enacted before 1988. There has not been a major review since that time, although there has been various changes made at different times since 1988. Most of those changes were to solve specific administrative or legal problems encountered by communities.

The current approach taken by *The Northern Affairs Act* is based on allowing a community to do only those things, which have been delegated to it. The approach of *The Municipal Act*, currently, is to permit a municipality to do whatever it wants except for those specific things, which have been identified as "must do" or "can not do". Many community people have expressed a desire to carry out local governance in a manner, which is not currently permitted by the Act. Due to the fact that much of local governance is parallel to Municipal Government, there may be some benefit in doing business in the same manner.

- What is the review expected to accomplish?

The review is expected to:

a) obtain comment, suggestions and ideas from community residents in Northern Manitoba, outlining the way they wish to carry out local governance, through their survey responses;
b) give opportunity for community councils to identify legislative issues that impact how they manage community affairs, through council response to the survey and resolutions;
c) include as much as possible the ways and methods used in *The Municipal Act*, 1996; and update other legislative areas to be consistent with current legislation.

2. Process

- How is the review to be conducted?

The review process starts with this discussion workbook.

- A questionnaire at the end of the workbook will enable you to record and mail in your thoughts and answers to various questions. Council members and community residents may mail in the surveys.
- There will be area meetings for council members to discuss the information in the workbook. All the information from the area meetings and the surveys will be summarized, and form a "white paper" that will be used in focus group discussions.
- The information from the focus group discussions will be added to the white paper and used in preparation of the draft report.

At the area meetings, community representatives will select a small number of persons to represent them in review of the draft report. These persons, the community stakeholders, will form the focus group to review the white paper and the draft report to ensure it includes all the relevant information from the review process.

The report will then be finalized and presented to the Minister of Aboriginal and Northern Affairs. The Minister, after discussion with his colleagues, may then issue instructions to have legislative drafting of:

- revisions to the Act;
- a whole new Act; or
- some other approach carried out to update the legislation.

- Who will be doing the review?

- The Department of Aboriginal and Northern Affairs has hired Mr. Roger Dennis as facilitator to oversee the working committee for the consultation process. Mr. Dennis is retired from the former Department of Rural Development.
- The Northern Association of Community Councils is a partner in both the consultation process and the working committee, through representation by President Joseph "Sonny" Klyne.
- Department staff will provide support to the facilitator and are part of the working committee.

- Who will be involved or consulted?

- Community councils will be specifically asked for comment;
- Individual community members are encouraged to participate through using the workbook and submitting a survey reply;
- Councils will select members to represent the community interests at the area meetings;
- Area meetings will select a smaller number of persons to be the community stakeholders for the focus group discussions; and
- NACC executive members will attend respective area meetings.

- How long will it take?

The total consultation and legislative process could take up to 18 months. It is presently planned to complete:

- Selkirk area meeting on 13 March, 2001
- Thompson, The Pas and Dauphin area meetings before 27 April, 2001

- Receipt of workbook surveys until 30 April, 2001
- Draft white paper by end of May, 2001
- Focus group review by end of June, 2001
- Draft report by 31 July, 2001
- Review draft report at NACC conference, August 2001
- Final report presentation to Minister of Aboriginal and Northern Affairs by end of September, 2001

- What is the process for bringing in a new Act? (legislative instructions, drafting, committee review, introduction of Bill, passage and proclamation, etc.)

  - The Minister, after reviewing the report, and consulting with Cabinet, gives direction respecting new legislation.
  - Legislative drafting is requested to prepare the Bill for the Legislature.
  - The Bill is given 1st and 2nd readings in the Legislature and sent for Legislative Committee review. Individuals and organizations may make presentations to the Committee respecting the Bill.
  - The Committee recommends final reading with or without amendments.
  - The Bill is given 3rd reading in the Legislature, receives Royal Assent by the Lieutenant Governor, and becomes law.

3. The Current Act

- What does the Act do?

  - Defines what is Northern Manitoba.
  - Gives the Minister the authority of a municipality in the jurisdiction of Northern Manitoba.
  - Spells out how communities are recognized by the Minister, or are incorporated under *The Northern Affairs Act*
  - Provides a framework for the communities to operate, whether they are incorporated or operate under delegated authority of the Minister.

- How does the Act impact residents?

  - The Act provides for rules of residency, which determine who has a right to vote in a community election, and who has the right to run for office in the community.
  - The Act provides for communities to deliver local services, under the delegated authority of the Minister.
  - The Act provides for residents of a community to request incorporation of the community.

- How does the Act impact Mayors and Councillors?

  - The Act sets out the framework for the Minister to determine the number of members of a council, the terms of office of the council members, any limits to the delegated authority under which they operate, and may determine penalties for wrongful acts.

- How does the Act impact department staff?

  - The Minister, through The Civil Service Act, hires department staff to carry out the tasks and duties that the Minister is responsible for. These can range from consultation and advice to community leaders, to administration of a community when the community runs into financial difficulty.
  - Department staff provide advice to the Minister on assessed needs and programs for the communities, as well as carry out the day to day government administration of programs and projects to benefit communities.

- How does the Act impact the Minister's authority and responsibilities?

  - The Act presently gives the Minister authority and responsibility for almost all of the municipal actions within Northern Affairs jurisdiction. When a community has incorporated the authority and responsibility for that community is transferred from the Minister to the incorporated community.
  - The Act gives the Minister authority to coordinate delivery of services and programs within Northern Manitoba. Other departments and agencies may provide services at the request of the Minister of Aboriginal and Northern Affairs, or the community council.

4. Key Issues or Concerns

In this section, questions are asked in the boxes. The questions are repeated in the same order on the survey form (yellow pages). You may wish to keep your own notes in the workbook and put your answers on the survey form.

Types of communities and numbers of each type

- Presently the Act provides for:
  - Contact communities, where a contact person is appointed to represent the community;
  - A community with a local committee, appointed by the Minister, to represent the community;
  - Communities with elected mayor and council, where the mayor and council, operating under the delegated authority of the Minister, represent the community; and
  - Incorporated Communities, where the elected incorporated community council, operating under its own authority, represents the community.
- Other Acts in other jurisdictions provide for a regional type of government in areas where two or three very small settlements exist.

Contact Person	Local Committee	Mayor and Council	Incorporated Council
10 communities	no communities	39 communities	1 community

A
1. Should there be different types of communities, or should they all be structured the same?

2. If there should be different types, are these the right ones?

3. If not, what do you think they should be?

Recognition and dissolution of communities

- Presently the Act does not set any criteria to establish a community.
- In order to incorporate, only 15 adult residents are required to petition incorporation action.
- The value of property assessment is one of the criteria used in *The Municipal Act*.

B

1. Do you think the criteria to recognize a community should be included in the Act?

2. Should the criteria include property assessment or other measures, or should they be strictly population based?

- Presently, the Minister establishes a community, on his own, by a Minister's regulation. In comparison, municipalities are established by an Order in Council, which is approved by the Cabinet.

C

1. Who should be involved in the decision to recognize a new community?

☐ Community residents ☐ A review board
☐ Neighbouring communities ☐ (Other) _____

2. Is a government regulation sufficient recognition of the establishment of a community?

- Currently the Act requires that the Minister obtain the approval of the Cabinet to dissolve a community.

D
1. What should be the criteria and process to dissolve a community?

Community boundaries

- Currently the Act permits the minister to set community boundaries by a regulation.
- The Act requires the department to consult with communities respecting land dispositions within an 8-km zone outside the community boundary.
- Not all communities have boundaries.
- A community may request a boundary review at any time.

E
1. What concerns do you have about community boundaries?

Election process

- Council members, including the mayor, are presently elected for a three-year term.
- Councils have half of the council elected in year 1 and the other half elected in year 2 with year 3 as a blank year for elections
- In comparison, Municipal councils now have all of the council elected every 4 years, for a 4-year term. This can result in a total change of council at the same time.
- The local election process uses the same rules of residency as municipalities in the rest of the province.

F
1. Is the 3-year term sufficient?

2. Should council members continue to have staggered terms, or should all terms expire at the same time?

3. Should non-resident property owners be allowed to vote for council members?

4. Should council have authority to appoint the community election officials?

Council member remuneration

- Council members receive an honourarium for their time in carrying out the council's work, one-third of which is tax-free. In addition, council members may receive mileage and travel expenses reimbursed at government rates to conduct council business at meetings outside the community.
- Incorporated communities may set their own rates, by by-law, within limits set by their incorporation regulation.

G
1. Is an honourarium a fair way of recognizing the work done by council members?

2. Should the amount of honourarium be set by council, or prescribed in the Act?

3. Do you have any other suggestions?

Council members' authority and responsibilities

- Council members are elected to manage the community. They have both authority and responsibilities, as shown in the table.

Elected Officials Authority	**Elected Officials Responsibility**
Make decisions about the community	Represent all community interests
Enact by-laws governing the community	Enforce the by-laws fairly
Deliver municipal type services to community	Ensure services are to proper standard
Hire, and supervise staff to carry out community programs	Ensure staff deliver services
Conduct business through council meetings	Ensure that public information is available to community and public.

H

1. Are there additional areas of authority council members should have?

2. Should there be additional responsibilities for council members?

3. Should there be further limitations on the authority of council members?

Administrative structure

- Three categories of "administration status" exist. These are:
  - trust status, where the department administers on behalf of the community;
  - self administration status, where the community council and staff administer under limited authority and responsibility;
  - local government services agreement status, where the community council and staff administer under additional authority and responsibility; and
  - incorporated community status, where the incorporated council, has full authority and responsibility and provides direction to staff to administer on its behalf.

Trust Administration	Self-Administration	Local Government Services Agreement	Incorporation
10 Communities	19 Communities	20 Communities	21 Communities

I

1. Should there be different administrative arrangements for different types of communities?

2. If so, are the administrative arrangements (above) satisfactory, or should there be other arrangements?

Community budget process

- Communities are required to prepare a community budget, generally as part of a Community Management Plan.
- *The Municipal Act* requires a council to submit the plan to residents for their comment. Councils are supposed to involve residents in this process.

J

1. Do you feel residents should have more participation in the budget process?

2. How often should council hold public meetings to discuss the budget and other financial matters?

Revenue sources for local government operations

- Communities are supported by operating and capital grants from the Provincial government.
- Communities raise some funding through local property and business taxes. A portion of this is also paid to the school division as school taxes.
- Communities may charge service fees for specific services, such as sewer, water, and garbage pick-up.

The chart illustrates the current average sources of Community funding, based on 4 years figures from all the communities.

- Communities are not permitted to borrow monies.
- Communities are permitted to establish reserve accounts to put aside monies for future needs.

1

1. Government grants
2. Locally generated $

K

1. Are the current revenue sources about right for your community?

2. If not, how should they be changed?

3. Do you think your community could raise more monies for community services by additional special taxes, user fees, or other means?

4. Do you think each community council should be able to set its own level of taxation by increasing or decreasing the mill rate?

Services provided by local government

- Communities are the providers of municipal type services to the residents and businesses in the community. The table following gives some basic information about these services. Not all communities have all services because some services are based on population levels.

Service	Description	Check off services in your community
Local governance	▪ Council, meetings etc – open to the public	
Community Administration	▪ Staff to provide service and information in the community	.
	▪ Community office and public works buildings ▪ Meeting space	
Roads	▪ Grading, gravelling ▪ Dust Control	
	▪ Snowploughing	
Docks	▪ Public dock and boat landing area	
Subdivision development	▪ Lots available for residents to build on	
	▪ Building and planning by-laws	
Safe water	▪ Water treatment plant	
Water delivery	▪ Pipeline or trucked delivery	
Sewage disposal	▪ Sewage treatment plant or lagoon	
Sewage collection	▪ Pipeline or trucked collection	
Garbage pick-up	▪ Scheduled truck pick-up	
Waste disposal	▪ Disposal site & maintenance	
Drainage	▪ Roadside ditches ▪ Other drainage components	
Constable	▪ Staff as constable or equivalent options	
Fire Department	▪ Forest Fire response	
	▪ Structural Fire response	
	▪ Other situations	
Emergency Health	▪ Local emergency transport	
	▪ Ambulance (under RHA)	
Emergency response	▪ Community emergency planning and emergency coordination	
Street lights	▪ Basic lighting at intersections	

Service (continued)	Description	Check off services in your community
Recreation facilities	▪ Skating rink	
	▪ Other winter sports facilities	
	▪ Summer sports grounds	
	▪ Community hall	
	▪ Arena	
Recreation programming	▪ Part time or full time recreation director	
Public cemetery	▪ Site and maintenance	
Animal control	▪ Animal Control officer and pound	

L

1. Are there other municipal services, not in the list, that you feel should be delivered by the community? Please list.

2. Are there services, which you would suggest be removed from this list?

3. Should there be different services for different types of communities?

4. Are there other non-municipal services in which you feel your community should be involved?

Economic development

- Presently only incorporated community councils are permitted to be directly involved with commercial enterprises. Other councils may establish economic non-profit development corporations.

M

1. In your opinion, how should community councils be involved with economic development?

Conflict of Interest

- Currently there is a broad-based policy on conflict of interest. From time to time councillors may be faced with potential conflict of interest.

N

1. In your opinion, what sorts of circumstances could be considered a conflict of interest?

2. Should rules for conflict of interest be included in the Act?

Other Issues

- This working document may have missed some other issues that you feel should be considered as part of the review of *The Northern Affairs Act*.

O

1. What other issues would you recommend be considered part of this review?

Who are you?

- Many surveys do not ask for identification. Many more do ask for identification. The last section on the survey form asks you to fill in a small amount of information so that the working group can determine the source and makeup of participants. There is a space to sign your name and we would encourage you to do so. Your name will not be identified in any report.

P

☐ A COMMUNITY RESIDENT ☐ A MEMBER OF COUNCIL

☐ A FORMER MEMBER OF COUNCIL ☐ A COMMUNITY EMPLOYEE

5. Where to obtain more information.

You may obtain more information by calling the Program Planning and Development Branch at (204) 945-2536, or writing to:

Northern Affairs Act Review
Program Planning and Development Branch
Aboriginal and Northern Affairs
200 – 500 Portage Avenue
Winnipeg, MB, R3C 3X1

6. Survey Form (yellow pages)

All of the questions in the workbook are repeated in the survey form. Your input, by sending in the form, is appreciated. Please remove the form, complete the answers from your notes and forward by mail in the pre-addressed and postage paid envelope.

You may contact the department to obtain a copy of the report to the Minister, after completion of the report.

Thank you for your participation in this consultation survey.